

AMENDED IN SENATE APRIL 13, 2000

SENATE BILL

No. 2034

Introduced by Senator Figueroa

February 25, 2000

~~An act to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith" approved by electors November 7, 1922 (the Chiropractic Act), by amending Section 1 of, and adding Sections 21, 22, and 23 to, that act, and to amend an initiative act entitled "An Act to establish a board of osteopathic examiners, to provide for their appointment, and to prescribe their powers and duties; to regulate the examination of applicants, who are graduates of osteopathic schools, for any form of certificate to treat disease, injuries, deformities, or other physical or mental conditions; to regulate the practice of those so licensed, who are graduates of osteopathic schools; to impose upon said board of osteopathic examiners all duties and functions, relating to graduates of osteopathic schools, holding or applying for any form of certificate or license, heretofore exercised and performed by the board of medical examiners of the State of California under the provisions of the state medical practice act, approved June 2, 1913, and acts amendatory thereof" approved by electors November 7, 1922 (the Osteopathic Act), by amending Sections 1 and 1.5 of, and adding Section~~

~~6 to, that act~~ *An act to amend Section 473.15 of the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2034, as amended, Figueroa. Healing arts: Chiropractic Act, Osteopathic Act.

(1) Existing law, an initiative measure approved by the electors on November 7, 1922, provides for the regulation and licensing of chiropractors in this state by the State Board of Chiropractic Examiners. ~~The board presently consists of 7 members, 5 of whom are licensed chiropractors, 2 of whom are members of the public.~~ The act places no time limitation on the operation of the board; however, existing codified law makes the board's continued operation subject to a review process initiated by the Joint Legislative Sunset Review Committee *during the interim recess of 1998.* ~~In addition, the act makes no provision for its amendment by the Legislature.~~

~~This bill would decrease the number of licensed chiropractor board members to 4 and would increase the number of public board members to 3. This bill would entitle the act the "Chiropractic Act." This bill would allow the Legislature to amend, revise, or supplement the Chiropractic Act, but would not permit the Legislature to eliminate the licensing of chiropractic practitioners in the state. This bill would provide for the termination of the operation of the board on an unspecified date. This bill would include in the act the review, as discussed above, of the board's continued operation require the review process to be undertaken during the interim recess of 2001, and would make related changes.~~

(2) The Osteopathic Act, an initiative measure approved by the electors on June 2, 1913, provides for the regulation and licensing of osteopathic physicians and surgeons in this state by the Osteopathic Medical Board of California. ~~The board presently consists of 7 members, 5 of whom are licensed osteopaths, 2 of whom are members of the public.~~ The act places no time limitation on the operation of the board; however, existing codified law makes the board's continued existence subject to a review process initiated by the Joint

Legislative Sunset Review Committee *during the interim recess of 1998.*

~~This bill would decrease the number of licensed osteopath board members to 4 and increase the number of public board members to 3. This bill would provide for the termination of the operation of the board on an unspecified date. This bill would include in the act the review, as discussed above, of the board's continued operation~~ *require the review process to be undertaken during the interim recess of 2003, and would make related changes.*

~~(3) This bill would direct the Secretary of State to place the provisions of this bill on the next statewide election ballot for approval by the voters.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1 of the Chiropractic Act is~~

2 *SECTION 1. Section 473.15 of the Business and*
3 *Professions Code is amended to read:*

4 473.15. (a) The Joint Legislative Sunset Review
5 Committee established pursuant to Section 473 shall
6 review the following boards established by initiative
7 measures, as provided in this section:

8 (1) The State Board of Chiropractic Examiners
9 established by an initiative measure approved by electors
10 November 7, 1922.

11 (2) The Osteopathic Medical Board of California
12 established by an initiative measure approved June 2,
13 1913, and acts amendatory thereto approved by electors
14 November 7, 1922.

15 (b) The State Board of Chiropractic Examiners ~~and~~
16 ~~the Osteopathic Medical Board of California~~ shall prepare
17 an analysis and submit a report as described in
18 subdivisions (a) to (e), inclusive, of Section 473.2, to the
19 Joint Legislative Sunset Review Committee on or before
20 September 1, ~~1998~~ 2001.

21 (c) *The Osteopathic Medical Board of California shall*
22 *prepare an analysis and submit a report as described in*

1 subdivisions (a) to (e), inclusive, of Section 473.2, to the
2 Joint Legislative Sunset Review Committee on or before
3 September 1, 2003.

4 (d) The Joint Legislative Sunset Review Committee
5 shall, during the interim recess of ~~1998~~ 2001 for the State
6 Board of Chiropractic Examiners, and during the interim
7 recess of 2003 for the Osteopathic Medical Board of
8 California, hold public hearings to receive testimony
9 from the Director of Consumer Affairs, the board
10 involved, the public, and the regulated industry. In that
11 hearing, each board shall be prepared to demonstrate a
12 compelling public need for the continued existence of the
13 board or regulatory program, and that its licensing
14 function is the least restrictive regulation consistent with
15 the public health, safety, and welfare.

16 ~~(d)~~

17 (e) The Joint Legislative Sunset Review Committee
18 shall evaluate and make determinations pursuant to
19 Section 473.4 and shall report its findings and
20 recommendations to the department as provided in
21 Section 473.5.

22 ~~(e)~~

23 (f) In the exercise of its inherent power to make
24 investigations and ascertain facts to formulate public
25 policy and determine the necessity and expediency of
26 contemplated legislation for the protection of the public
27 health, safety, and welfare, it is the intent of the
28 Legislature that the State Board of Chiropractic
29 Examiners and the Osteopathic Medical Board of
30 California be reviewed pursuant to this section.

31 ~~(f)~~

32 (g) It is not the intent of the Legislature in requiring
33 a review under this section to amend the initiative
34 measures that established the State Board of Chiropractic
35 Examiners or the Osteopathic Medical Board of
36 California.

37 amended to read:

38 1. State _____ Board _____ of _____ Chiropractic
39 Examiners Creation Appointment and Qualification of
40 Members.

~~A board is hereby created to be known as the “State Board of Chiropractic Examiners,” hereinafter referred to as the board. The board shall consist of seven members appointed by the Governor. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Three members shall be public members. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.~~

~~Not more than two persons shall serve simultaneously as members of said board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is or within one year of the proposed appointment has been an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 of the Business and Professions Code for each day during which he is actually engaged in the discharge of his duties, together with his actual and necessary travel expenses incurred in connection with the performance of the duties of his office, such per diem, travel expenses and other incidental expenses of the board of its members to be paid out of the funds of the board hereinafter defined and not from the state’s taxes.~~

~~SEC. 2. Section 21 is added to the Chiropractic Act, to read:~~

~~21. This act shall be known and may be cited as the “Chiropractic Act.”~~

~~SEC. 3. Section 22 is added to the Chiropractic Act, to read:~~

~~22. The Legislature may amend, revise, or supplement any part of this act, but may not eliminate the licensing of practitioners of chiropractic.~~

~~SEC. 4. Section 23 is added to the Chiropractic Act, to read:~~

1 ~~23. The provisions of this act providing for the~~
2 ~~establishment of the State Board of Chiropractic~~
3 ~~Examiners shall become inoperative on July 1, _____,~~
4 ~~and, as of January 1, _____, are repealed, unless a~~
5 ~~later enacted statute that becomes operative on or before~~
6 ~~January 1, _____, deletes or extends those dates of~~
7 ~~inoperation and repeal. The board is subject to all~~
8 ~~relevant provisions of Division 1 (commencing with~~
9 ~~Section 100) of, and is subject to review pursuant to~~
10 ~~Division 1.2 (commencing with Section 473) of, the~~
11 ~~Business and Professions Code.~~

12 ~~SEC. 5. Section 1 of the Osteopathic Act is amended~~
13 ~~to read:~~

14 ~~1. Board of Osteopathic Examiners~~

15 ~~A self-sustaining Osteopathic Medical Board of~~
16 ~~California to consist of seven members and to be known~~
17 ~~as the “Osteopathic Medical Board of California of the~~
18 ~~State of California” is hereby created and established.~~
19 ~~The Governor shall appoint the members of the board,~~
20 ~~each of whom shall have been a citizen of this state and~~
21 ~~in active practice for at least five years next preceeding his~~
22 ~~or her appointment. Each of the members shall be~~
23 ~~appointed from among persons who are graduates of~~
24 ~~osteopathic schools who hold unrevoked physician’s and~~
25 ~~surgeon’s D.O. licenses or certificates to practice in this~~
26 ~~state. No one residing or practicing outside of this state~~
27 ~~may be appointed to, or sit as a member of, the board. The~~
28 ~~Governor shall fill by appointment all vacancies on the~~
29 ~~board for the unexpired term. The term of office of each~~
30 ~~member shall be three years; provided, that of the first~~
31 ~~board appointed, one shall be appointed for one year, two~~
32 ~~for two years, and two for three years, and that thereafter~~
33 ~~all appointments shall be for three years, except that~~
34 ~~appointments to fill vacancies shall be for the unexpired~~
35 ~~term only. No member shall serve for more than three full~~
36 ~~consecutive terms. The Governor shall have power to~~
37 ~~remove from office any member of the board for neglect~~
38 ~~of duty required by the Osteopathic Act or Medical~~
39 ~~Practice Act, for no longer complying with the residency~~
40 ~~or practice requirements of this section, for~~

1 incompetency, or for unprofessional conduct. Each
2 member of the board shall, before entering upon the
3 duties of his or her office, take the constitutional oath of
4 office. All fees collected on behalf of the Osteopathic
5 Medical Board of California and all receipts of every kind
6 and nature, shall be reported at the beginning of each
7 month for the month preceeding, to the Controller and at
8 the same time the entire amount must be paid into the
9 State Treasury and shall be credited to a fund to be known
10 as the Osteopathic Medical Board of California
11 Contingent Fund, which fund is hereby created. The
12 contingent fund shall be for the use of the Osteopathic
13 Medical Board of California and out of it and not
14 otherwise shall be paid all expenses of the board. Each
15 member of the board shall receive a per diem and
16 expenses as provided in Section 103, provided the fees
17 and other receipts of the board are sufficient to meet this
18 expense.

19 The Governor shall appoint the members of the board
20 within 30 days after this act takes effect. The board shall
21 be organized within 60 days after the appointment of its
22 members by the Governor by electing from its number
23 a president, vice president, and a secretary who shall also
24 be the treasurer, who shall hold their respective positions
25 during the pleasure of the board. The board shall hold one
26 meeting during the first quarter of each calendar year at
27 a time and place designated by the board with power of
28 adjournment from time to time until its business is
29 concluded. Special meetings of the board may be held at
30 such time and place as the board may designate. Notice
31 of each regular or special meeting shall be given twice a
32 week for two weeks next preceeding each meeting in one
33 daily paper published in the City of San Francisco, one
34 published in the City of Sacramento, and one published
35 in the City of Los Angeles which notice shall also specify
36 the time and place of holding the examination of
37 applicants. The secretary of the board upon an
38 authorization from the president of the board, or the
39 chairperson of the committee may call meetings of any
40 duly appointed committee of the board at a specified time

~~1 and place and it shall not be necessary to advertise those
2 committee meetings. The board shall receive through its
3 secretary applications for certificates to be issued by the
4 board and shall, on or before the first day of January in
5 each year transmit to the Governor a full report of all its
6 proceedings together with a report of its receipts and
7 disbursements.~~

~~8 The office of the board shall be in the City of
9 Sacramento. Suboffices may be established in Los
10 Angeles and San Francisco and records as may be
11 necessary may be transferred temporarily to those
12 suboffices. Legal proceedings against the board may be
13 instituted in any one of the three cities.~~

~~14 The board may from time to time adopt rules as may be
15 necessary to enable it to carry into effect the provisions
16 of this act. It shall require the affirmative vote of three
17 members of the board to carry any motion or resolution;
18 to adopt any rules, pass any measure or to authorize the
19 issuance or the revocation of any certificate. Any member
20 of the board may administer oaths in all matters
21 pertaining to the duties of the board and the board shall
22 have authority to take evidence in any matter cognizable
23 by it. The board shall keep an official record of its
24 proceedings, a part of which record shall consist of a
25 register of all applicants for certificates under this act
26 together with the action of the board upon each
27 application.~~

~~28 The board shall have the power to employ legal counsel
29 to advise and assist it in connection with all matters
30 cognizable by the board or in connection with any
31 litigation or legal proceedings instituted by or against the
32 board and may also employ clerical assistance as it may
33 deem necessary to carry into effect this act. The board
34 may fix the compensation to be paid for those services and
35 may incur other expense as it may deem necessary;
36 provided, however, that all of that expense shall be
37 payable only from the fund hereinbefore provided for
38 and to be known as the Osteopathic Medical Board of
39 California Contingent Fund.~~

1 ~~SEC. 6. Section 1.5 of the Osteopathic Act is amended~~
2 ~~to read:~~

3 ~~1.5. Public Members of Board~~

4 ~~Of the seven members of the Osteopathic Medical~~
5 ~~Board of California as provided for in Section 1, there shall~~
6 ~~be three public members on the board. The public~~
7 ~~members shall not be licensees of any board established~~
8 ~~in Division 2 (commencing with Section 500) of the~~
9 ~~Business and Professions Code nor of any initiative act~~
10 ~~referred to in that division. The public members shall be~~
11 ~~appointed by the Governor for a term of three years and~~
12 ~~shall not serve for more than three full consecutive terms.~~

13 ~~SEC. 7. Section 6 is added to the Osteopathic Act, to~~
14 ~~read:~~

15 ~~6. The provisions of the act providing for the~~
16 ~~establishment of the Osteopathic Medical Board of~~
17 ~~California shall become inoperative on July 1, _____,~~
18 ~~and, as of January 1, _____, are repealed, unless a later~~
19 ~~enacted statute that becomes operative on or before~~
20 ~~January 1, _____, deletes or extends those dates of~~
21 ~~inoperation and repeal. The board is subject to all~~
22 ~~relevant provisions of Division 1 (commencing with~~
23 ~~Section 100) of, and is subject to review pursuant to~~
24 ~~Division 1.2 (commencing with Section 473), of the~~
25 ~~Business and Professions Code.~~

26 ~~SEC. 8. The Secretary of State is hereby directed to~~
27 ~~place Sections 1 to 7, inclusive, of this act on the ballot of~~
28 ~~the next general statewide election for approval by the~~
29 ~~voters of this state in accordance with applicable~~
30 ~~provisions of law.~~